



Texas Department of Housing and Community Affairs

SECTION 811 PROJECT RENTAL ASSISTANCE PROGRAM

Participant Selection Plan

January 2023

BACKGROUND

The U.S. Department of Housing and Urban Development (HUD) Section 811 Project Rental Assistance (PRA) Program provides project-based rental assistance for extremely low-income persons with disabilities linked with long term services.

The program is made possible through a partnership between the Texas Department of Housing and Community Affairs (TDHCA), the Texas Health and Human Services Commission (HHSC), the Department of Family and Protective Services (DFPS), and eligible multifamily properties awarded by TDHCA. HHSC and DFPS are referred to as Medicaid Agencies below.

This Participant Selection Plan (PSP) serves as the program-wide tenant selection plan and contains tenant selection criteria for the Texas Section 811 PRA Program. The PSP guides how tenants are reviewed and accepted by TDHCA for program eligibility prior to referral to any Eligible Multifamily Properties. Participating Eligible Multifamily Properties have their own property-level, TDHCA-approved tenant selection plans for determining tenant selection for their Section 811 PRA Program units.

As an entity that receives HUD funding, TDHCA is committed to meeting HUD requirements to expand fair housing choice and opportunities in the State of Texas.

TDHCA will comply with state and federal fair housing and anti-discrimination laws; including, but not limited to, consideration of reasonable accommodations requested to complete the application process.

The PRA Program's screening criteria will be applied in a manner consistent with all applicable laws, including the Texas and Federal Fair Housing Acts, the Federal Fair Credit Reporting Act, program guidelines, and the Department's rules.

Reasonable accommodations will be made for persons with disabilities and language assistance will be made available for persons with limited English proficiency.



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Capitalized terms are defined in the Section 811 Project Rental Assistance Program Cooperative Agreement, its attachments (Cooperative Agreement), which is found on the TDHCA 811 webpage: <http://www.tdhca.state.tx.us/section-811-pra/resource-documents.htm> and Title 10 of the Texas Administrative Code which is found on the Texas Office of the Secretary of State's webpage: [https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=3&ti=10&pt=1](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=3&ti=10&pt=1).

THRESHOLD ELIGIBILITY REQUIREMENTS

The 811 PRA Program is a federally funded program limited to individuals who are part of the Target Population and eligible to receive services through one of the state Medicaid Agencies participating in the program. Each Eligible Applicant must include a qualified member of the Target Population that is at least 18 years of age and under the age of 62. Applicants may qualify before they are 18 years of age, but they cannot move into an assisted unit before they turn 18.

Households must meet the definition of Eligible Applicant as defined by Exhibit 1 of the Cooperative Agreement and as further provided below. All Target Populations are eligible for community-based, long-term care services as provided through Medicaid waivers, Medicaid state plan options, or state funded services and have been referred to TDHCA through their disability services provider, service coordinator, or local mental health authority case manager

The State of Texas has committed to making voluntary services available based on the needs of individual members of each Target Population. Only Eligible Applicants, also known as Eligible Tenants, as further defined below, and as defined in the Interagency Agreement, may access the Section 811 PRA Program.

The Interagency Partnership Agreement outlines the roles and responsibilities of TDHCA and the Medicaid Agencies. It can be found on the TDHCA Section 811 webpage: <http://www.tdhca.state.tx.us/section-811-pra/resource-documents.htm>.

To determine applicant eligibility, Referral Agents, approved by TDHCA and the Medicaid Agencies, submit completed, TDHCA Application Packets to the TDHCA Point of Contact (POC) for the HUD Section 811 PRA Program. The applications are located on the TDHCA Section 811 webpage: <https://www.tdhca.state.tx.us/section-811-pra/referral-agents.htm>. The application contains response fields needed for TDHCA to verify the Threshold Eligibility Requirements. Only Referral Agents can submit TDHCA Application Packets to the program. Participating Eligible Multifamily Properties may also verify the Threshold Eligibility Requirements at the time of referral from TDHCA. The list of Threshold Eligibility Requirements is as follows:

1. Disability Requirement

Eligible Applicants must be persons with disabilities, as defined by Exhibit 1 of the Cooperative Agreement.

2. Income Requirement

The combined annual income of all members of the Eligible Applicant's household at the time of admission into the 811 PRA Program must not exceed the extremely low-income limit, as defined by HUD, based on the area in which the property is located. TDHCA maintains an updated Income Limit Chart on its TDHCA 811 webpage: <http://www.tdhca.state.tx.us/section-811-pra/participating-properties.htm>.

3. Age Requirement

The Applicant's household must contain at least one person with a disability who is a member of the Target Population and who is 18 years of age or older and less than 62 years of age at the time of admission into the property.

4. Social Security Numbers

New Applicants and Existing Tenants

Effective March 30, 2009, per the Code of Federal Regulations, 24 CFR Parts 5, 92, and 908, Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs Final Rule, each assisted Applicant must submit the complete and accurate Social Security number assigned to the Applicant and to each member of the Applicant's household claiming eligible immigration status, and documentation of the numbers submitted.

The documentation necessary to verify a Social Security Number (SSN) is a valid SSN card issued by the Social Security Administration (SSA), or such other evidence of the SSN as HUD may prescribe in administrative instructions, including acceptable sources listed in Appendix 3 of HUD Handbook 4350.3 REV-I.

There is one exception to this rule: for Applicants age 62 or older as of January 31, 2010, whose initial determination of eligibility for assistance was begun before January 31, 2010, documentation must be obtained from the Owner of the property where the initial determination of eligibility was determined that verifies the Applicant's exemption status.

The documentation necessary to verify a SSN is a valid SSN card issued by the Social Security Administration (SSA), or such other evidence of the SSN as HUD may prescribe in administrative instructions, including acceptable sources listed in Appendix 3 of HUD Handbook 4350.3 REV-I.

Adding a New Household Member to an Existing Household

When a tenant requests that the participating property add a new household member, the tenant must submit the new household member's complete and accurate SSN to the Owner at the time of the request or at the time of processing the interim reexamination or recertification of household composition that includes the new member(s), and documentation of the number(s) submitted.

For a new household member under the age of six without an assigned SSN, the tenant must disclose and provide verification of the new household member's SSN within 90 calendar days of the child being added to the household. The Owner, as articulated in their tenant selection criteria, must grant an extension of one additional 90-day period, if the Owner, in its discretion, determines that the tenant's failure to comply is due to circumstances that could not have been foreseen and were outside the control of the tenant, e.g., delay in processing by SSA, natural disaster, fire, death in family, etc. During the period that the Owner is awaiting disclosure and verification of the SSN, the child is included as part of the household and shall be entitled to all of the benefits of being a household member, including the dependent deduction. If, upon expiration of the provided time period, the tenant fails to disclose and provide verification of the SSN, the tenant and the tenant's household are subject to termination of tenancy. The documentation necessary to verify a SSN is a valid SSN card issued by the SSA, or such other evidence of the SSN as HUD may prescribe in administrative instructions, including acceptable sources listed in Appendix 3 of HUD Handbook 4350.3 REV-1.

Previously Undisclosed SSN or Assignment of New SSN

If a tenant or any member of the tenant's household has a previously undisclosed SSN, or has been assigned a new SSN, the tenant must submit the complete and accurate SSN assigned to the tenant or household member, and documentation of the number(s) submitted. The documentation necessary to verify a SSN is a valid SSN card issued by the SSA, or such other evidence of the SSN as HUD may prescribe in administrative instructions, including acceptable sources listed in Appendix 3 of HUD Handbook 4350.3 REV-1.

Lack of Social Security Documentation

According to Paragraph 3-9 of HUD Handbook 4350.3 REV-I, if an individual has a SSN but does not have documentation of such, the property will continue to process the application, and will give the Applicant 90 days to provide the documentation. If the property has determined that the Applicant is otherwise eligible for admission, and the only outstanding verification is that of the SSN, the Applicant may retain his or her place on the waiting list for the 90-day period during which the Applicant is trying to obtain documentation. After 90 days, if the Applicant has been

unable to supply the required SSN documentation, the Applicant should be determined ineligible and removed from the waiting list.

5. Applicant Consent to Release Information

All members of an Applicant or tenant household, who are at least 18 years of age, and each household head and spouse regardless of age, must authorize the Referral Agent (RA) to share personal information, including income information, with TDHCA. This authorization is part of the program application and is required. Refusing to sign the Authorization for Release of Information (HUD 9887/9887-A) by any adult household member will cause the household to be ineligible for assistance. All adults regardless of whether they report income must sign the program application. In addition, all adult members of an Applicant household will be asked to sign individual verification forms authorizing the property to verify household income and other applicable eligibility factors. Applicants will be asked to sign a release that allows the RA to discuss with the program staff at TDHCA and participating properties throughout the program application process, property application process, and (if applicable) tenancy supported by Project Rental Assistance, in a participating property.

6. Screening for Other Criminal Activity and Sex Offender Status

Prior to occupancy, Owners will screen for and cannot admit an Applicant if any member of the household, including household member age 18 and over:

- Is subject to a lifetime registration requirement under a State sex offender registration program,
- Was evicted in the last three years from federally assisted housing for drug-related criminal activity, or
- Is currently engaged in illegal use of drugs or for which the Owner has reasonable cause to believe that a member's illegal use or pattern of illegal use of a drug or alcohol may interfere with the health, safety, and right to peaceful enjoyment of the property by other residents.

TDHCA or Owners will reject applications that indicate any of the above conditions either through the program application, additional information or evidence submitted in connection to the application, an application update, or publicly available records.

7. Target Populations

The Person with a Disability must be a member of the Target Population, as defined by the Interagency Agreement. The Target Population includes:

- Persons with Disabilities Exiting, or having exited within the previous 12 months prior to submitting the Application, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs) and Nursing Facilities. If a household exits a nursing facility after applying for the 811 PRA program, they maintain eligibility if they submit an Application to the Section 811 PRA Program within 12 months of exiting.
- Persons with Serious Mental Illness eligible for services through a Local Mental Health Authority or Local Behavioral Health Authority
- Youth or Young Adults with Disabilities Exiting Foster Care

8. Eligibility under the Student Rule

Owners are required to determine a student's eligibility for Section 811 PRA assistance at move-in, annual recertification, initial certification (when an in-place tenant begins receiving Section 811 PRA) and at the time of an interim recertification if one of the household composition changes reported is that a household member is enrolled as a student. The Owner will use the following HUD guidelines as indicated in Chapter 3 of HUD's occupancy handbook, HUD Handbook 4350.3 REV-I. A property may have other additional student restrictions applicable in relation to other funding sources utilized by the property.

Students that are Eligible for Section 811 PRA Assistance

For a student to be eligible, independent of his/her parents (where the income of the parents is not relevant), the student must demonstrate the absence of, or his/her independence from, parents. The student must meet, at a minimum, all of the following criteria to be eligible for Section 811 PRA assistance. The student must:

- Be of legal contract age under State law;
- Have established a household separate from parents or legal guardians for at least one year prior to application for occupancy, **or** meet the U.S. Department of Education's definition of an independent student, as indicated in the handbook Glossary);
- Not be claimed as a dependent by parents or legal guardians pursuant to Internal Revenue Service (IRS) regulations; and
- Obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. This certification is required even if no assistance will be provided.

If a household consists of all full time students (attending public or private elementary schools, middle or junior high schools, senior high schools, colleges, universities, technical, trade or

mechanical schools) for five or more months during the current and/or upcoming calendar year (months need not be consecutive), the household must also meet one of the following conditions:

- At least one student receives assistance under Title IV of the Social Security Act (such as TANF);
- At least one student was under the care and placement responsibility of the state agency responsible for administering foster care;
- At least one student participates in a program receiving assistance under the Job Training Partnership Act, Workforce Investment Act, or other similar federal, state or local laws;
- At least one student is a single parent with child(ren) and the parent is not a dependent of another individual and the child(ren) is/are not dependent(s) of someone other than the parent; or
- The students are married and entitled to file a joint tax return.

Defining Student Financial Assistance Income

Any financial assistance a student receives (1) under the Higher Education Act of 1965, (2) from private sources, or (3) from an institution of higher education that is in excess of amounts received for tuition is included in annual income, except if the student is over the age of 23 with dependent children or if the student is living with his or her parents who are receiving Section 811 PRA assistance. (See the Glossary of HUD Handbook 4350.3 REV-1 for an expanded definition of Student Financial Assistance.)

Protection from Eviction

The Owner will not evict or require an ineligible student to move from a unit as long as the student is otherwise eligible to reside in the unit pursuant to the Section 811 PRA Program requirements, is paying the property's rent, not to exceed market rent, and is in compliance with the terms of the lease.

OUTREACH PROCEDURES

The Medicaid agencies, through the Referral Agents (RAs), are responsible for conducting outreach to individuals they serve who are likely to qualify as a member of one of the Target Populations. RAs are further described and specifically defined in the [Inter-Agency Partnership Agreement](#) between the Medicaid Agencies and TDHCA, and also on the Section 811 PRA webpage <https://www.tdhca.state.tx.us/section-811-pra/index.htm>. The role of an RA may be found in the Section 811 Referral Agent Manual.

APPLICATION PROCEDURES

Application Packet

Applications must be submitted by a Certified Section 811 PRA Referral Agent to the TDHCA Secure Server. An application is considered to be submitted once it has been successfully uploaded to the Secure Server, wherein a date and time stamp is created automatically when the Application Packet is uploaded. The date and time stamp is used to determine placement on any property waiting list.

When an individual applies, the RA will provide the individual with an application and offer assistance to complete it. While the RA can help an Applicant determine if they will be eligible, the RA must not inform an Applicant they cannot apply due to certain selection criteria or assure program or property acceptance. Upon completion of the application packet, the applicant must execute a HUD Form 9887/9887-A consenting the release of certain information to TDHCA, the RA and applicable participating properties. The release of information is valid for 15 months after execution. If an applicant is referred to a property after the 15 months, a new HUD Form 9887/9887-A will be required. The applicant/tenant can affirmatively communicate to TDHCA at any time, to retract the release of information. The release of information terminates upon rejection or removal from the program as described below.

Application Process

The application process for an Applicant to be referred requires three steps as outlined below:

- **Program Eligibility Screening:** RAs will determine if interested individuals have completed all of the required steps to submit an application. TDHCA will then review the submission to determine whether an Applicant meets all Threshold Eligibility Requirements.
- **Property Selections:** Once an Applicant has passed this screening, they will be added to the property wait list(s) as selected in their application packet. Applicants will not be added to any property waitlists that are closed.
- **Property Screening:** Once an Applicant has been selected from a property's waitlist, the Applicant will be referred and screened per the Tenant Selection Criteria applicable to the property. Applicants may be referred to more than one property at a time.

RAs will provide Applicants the opportunity to review all of the property-specific materials on the Section 811 Program's webpage. Information includes basic information about available sites including location, bedrooms sizes and number of accessible units, site amenities, access to transportation and commercial facilities.

Based on the information reviewed, the applicant can then select one or more properties. They will be placed as the next applicant on each property's waitlist. If an application packet is submitted incomplete, contains inconsistencies, or for which the TDHCA POC has other concerns, the TDHCA POC will notify the RA through email. The RA will assist in gathering any additional necessary information to ensure the application is complete. The requested documentation and/or fully completed application is due to the TDHCA POC within 14 days of the request. If the application is not received within the 14 days, the application will be rejected in accordance with the TDHCA **Standard Operating Procedure: Processing Program Applications and Property Lease Up**. Such a rejection does not prevent an Applicant from reapplying for the Program.

Potential Applicants for the Section 811 PRA Program are identified by RAs. Once the potential Applicant decides to apply to the Section 811 PRA Program, the RA will assist the Applicant with completing the TDHCA provided application and supporting documentation. The RA will also conduct a basic interview with the Applicant to determine if they meet the Threshold Eligibility Requirements.

Upon completion of the application and interview, the RA will detail which properties are available and participating in the area(s) in which the Applicant desires. Each property will have their own admission criteria. Therefore, the RA is encouraged to detail the admission criteria for each property prior to selecting so the Applicant is prepared for potential impediments regarding admission.

PROPERTY SELECTION

Property Options Form

Applicants to the Section 811 PRA Program may choose participating Eligible Multifamily Properties that are located across the state whose waiting lists have not been closed. Eligible Applicants are not required to participate in Services.

The Section 811 Application contains a Property Options Form located on the Section 811 webpage <https://www.tdhca.state.tx.us/section-811-pra/participating-agents.htm>. The Property Options Form details available properties with an open waitlist. Referral Agents are only

authorized to submit Applications to the Section 811 Program that include properties within their agency’s service delivery area.

Section 811 Outside Service Area Property Referral Form

Applicants to the Section 811 PRA Program may choose a participating Eligible Multifamily Property or Properties located outside the Referral Agent’s service delivery area only if a Section 811 Outside Service Area Property Referral Form is completed. This form is located on the Section 811 webpage at <https://www.tdhca.state.tx.us/section-811-pra/referral-agents.htm>.

The Section 811 Outside Service Area Property Referral Form allows the Applicant’s currently assigned Referral Agent to contact a Section 811 Referral Agent or point of contact in the Applicant’s desired area and request support to connect the Applicant to services when a property becomes available.

OPENING AND CLOSING THE WAITING LIST

Closing the Waiting List

TDHCA maintains a program-wide waiting list that is organized by Metropolitan Statistical Area (MSA), County and Property. TDHCA will continuously monitor each of these categories to ensure wait times do not become excessive. Excessive wait times are defined in the Closure Metric detailed below:

Geographic Area	Closure Metric
1) MSA	Average number of days waiting for all counties within an MSA exceeds 365 days
2) County	There are twice as many applicants waiting for a unit in a county than there are the number of units committed for that county.
3) Property	Average number of days waiting for a property exceeds 365 days. *Wait lists will not be closed for properties under construction.

Closure Metric Methodology

1. MSA. Once the average number of days waiting across all counties in an MSA exceeds 365 days, the waiting list for all counties in that MSA may be closed. Average number of days waiting will be calculated by averaging wait times for all waiting applicants wanting to live in that MSA.
2. County. Once the ratio of waiting applicants wanting to live in a county exceeds the number of units committed for that county by two to one, the waiting list for the county will be closed.
3. Property. Once the average number of days waiting for a property exceeds 365 days, the waiting list for that property may be closed. Average number of days waiting will be calculated by the averaging the wait times for all applicants waiting for that property. Wait lists will not be closed for properties under construction.

TDHCA will notify RAs through email when a waiting list will be closing. Sufficient time for the RAs to notify applicants will be provided prior to closing a waiting list. Additionally, a Notice of Closure will be published on the TDHCA webpage. The Notice will state the reasons for the closure and for the refusal to accept any applications.

Opening the Waiting List

A waiting list may be reopened when TDHCA implements a preference, the list of applicants has been exhausted or additional funding for rental assistance becomes available. TDHCA will announce the reopening of a wait list through email to the applicable RAs and publishing Notice on TDHCA's webpage.

Once a waiting list has been reopened, the process to apply is the same as the Application Procedures noted above.

PREFERENCES

To ensure TDHCA is adequately meeting the needs of each Target Population the Section 811 PRA Program serves, TDHCA is applying an occupancy preference to applicants beginning May 1st, 2022.

HUD Handbook 4350.3 states, "Applicants with preferences are selected from the waiting list and receive an opportunity for an available unit earlier than those who do not have a preference. Preferences affect only the order of applicants on the waiting list. They do not make anyone eligible who was not otherwise eligible, and they do not change an owner's right to adopt and enforce tenant screening criteria."

The preference TDHCA is implementing will affect the following new applicants:

- Persons with disabilities exiting nursing facilities;
- Persons with disabilities exiting in Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Condition (ICF/IIDs); and
- Youth or young adults with disabilities aging out of foster care.

As stated above, this preference does not confer eligibility for the Section 811 PRA Program; however, they will be given priority when a unit becomes available. Applicants submitting a new Application Packet to the Section 811 PRA Program with a date and time stamp of May 1, 2022 12:01 AM Central Time or later will be subject to the occupancy preference. The preference will not affect applicants currently listed on any TDHCA waiting list. These applicants will maintain their current position on the waiting list(s).

The termination date of the preference is April 30, 2026. The preference may be terminated sooner if deemed necessary by TDHCA. Staff will notify HUD of the Department's intention at least 30 days before implementing this preference. No later than March 31, 2026, TDHCA along with its state-agency partners will examine the tenant makeup of the Section 811 PRA portfolio, along with the waiting list. This examination will determine whether the continuation of this preference policy is needed for some or all of the three Target Populations that are currently underserved.

REPORTING CHANGES WHILE ON A WAITING LIST

While an Applicant is on the waiting list, the Applicant must notify their RA and TDHCA of any changes in the household size or composition, income changes, contact information, current residence, property selections, email address, mailing address or phone number. It is important that contact information be kept current as much as possible. RAs or TDHCA will reach out to Applicants periodically who are on the waiting list to determine if Applicant households have any changes to report, determine if Applicants are still interested in the program, and record any changes to an Applicant's contact information. Failure to reply to TDHCA in a manner described by TDHCA at the time of contact may result in being removed from the waiting list. Removal from the waiting list does not prevent a household from reapplying to the program.

Changes in an Applicant's circumstances while on the waiting list may affect the household's qualification for a particular bedroom size, property, or eligibility for the program. When an

Applicant reports a change that affects their placement on a waiting list, the waiting list will be updated accordingly and the Applicant will be notified of the change.

If an Applicant or an Applicant's Referral Agent does not respond to a request for information from TDHCA, the Applicant may be removed from the Section 811 PRA Program in accordance with all TDHCA policies and procedures.

REFERRAL TO A PROPERTY

Once TDHCA is notified of an available or upcoming Section 811 PRA Program vacancy at a participating property with funding available for that unit, TDHCA sends the application for the next applicant eligible for that unit size to the property. RAs are notified of the referral via email. Applicants are notified by call, email and/or letter from the property owner/agent. If upon being contacted, the Applicant is no longer interested or eligible, the RA is responsible for notifying the TDHCA POC as quickly as possible so another Applicant may be contacted. RAs are trained to be aware that the program is only offered a vacant unit for a limited period of time, so delays from an Applicant that ultimately declines a unit could affect the timeframe available for the ensuing eligible Applicant on the waiting list for that property.

NOTIFICATION OF UNIT AVAILABILITY

Applicants will be selected from property waiting lists on a first come, first served basis unless a priority or preference has been established. In such cases, those with a preference will only be offered a unit ahead of non-priority or non-preference applicants when the date the non-priority or non-preference applicants were added to the waiting list falls after the date the priority or preference was established by TDHCA. Therefore, the TDHCA POC may refer multiple eligible households to a property for a property-level screening until a successful candidate is found, and until all available Section 811 PRA units at that property are occupied, or until no other qualified Applicants remain who have selected to be on the property's waiting list.

Once an Applicant comes to the top of a waiting list(s) and a unit(s) that matches their bedroom size requirements becomes available, the TDHCA POC will notify the RA by e-mail that a unit is available. The notification will provide basic information which may include:

- Property Name
- Address
- Owner/Property manager contact information

However, when a unit has accessibility features for people with physical disabilities becomes available for occupancy, the unit will first be offered, to applicants requiring the accessible features of the unit. Applicants on the waiting list who do not require the accessibility features of the unit will be skipped over to offer the unit to the next qualified individual on the Section 811 PRA waiting list who requires the unit's accessibility features.

Lease up of accessible units will occur in accordance with HUD Handbook 4350.3 2-32.

The Applicant will have a limited amount of time, depending on each property's rules published in their Tenant Selection Criteria, from the time the Applicant is informed by the Owner/property manager to complete a property level application. **If this is not done within this timeframe, the unit will be offered to the next person on the waiting list.** When skipped due to no timely response or if an applicant declines the unit, the applicant will be removed from that property waiting list unless the Applicant or RA updates their contact information and/or proactively requests TDHCA maintain them on that waiting list within 30 days.

PROPERTY APPLICATION

Once referred to a property as described above, Applicants will then be required to complete the property's application form and go through the property's application process. RAs assist Applicants to complete these steps. The properties have the right to conduct a "background" check on Applicants and review any criminal history, credit history and/or rental history consistent with the screening criteria defined in the property's Tenant Selection Plan and made available to applicants. **Note that not all properties criteria are the same.** Properties will also be required to utilize the Enterprise Income Verification (EIV) system Existing Tenant Search to determine if the Applicant or any member of the Applicant's household are being assisted under a HUD rental assistance program at another location.

All properties participating in the program are required to obtain approval of their Tenant Selection Plans from TDHCA Section 811 staff prior to accepting applications from Eligible Applicants. Properties will ensure households are eligible for their property in accordance with provisions found in the Section 811 PRA Rental Assistance Contract, including sections PRA.403 Selection and Admission of Eligible Tenants; HUD Handbook 4350.3; and other applicable property-level written tenant selection policies that comply with 10 TAC §10.802 and this Participation Selection Plan.

It is important to note that Applicants can be found *eligible* by TDHCA for the Section 811 PRA Program but be found *ineligible or rejected* by the Owner/property manager. Properties are

allowed to use their own nondiscriminatory screening criteria and may examine aspects of an application that TDHCA does not consider.

Security Deposit

The Owner is allowed to collect a security deposit of one month of the Total Tenant Payment or \$50 whichever is greater. The Owner is **not** required to collect a security deposit but the expectation is that many will do so. The Owner must return the security deposit when the tenant moves out, less any cost for damages.

Application Fees

Application fees are not allowed to be collected from Applicants for the Section 811 PRA Program.

REMOVAL FROM PROPERTY WAITING LIST AND FROM PROGRAM

TDHCA will remove Applicants from the waiting list(s) they had previously selected at their request or their RA's request.

While an applicant is waiting for one or more properties, they may update their property selections. However, when Program Staff discover an applicant who has been referred to all properties they were waiting for without signing an 811 PRA Lease, they will notify the Applicant's RA via email. The email will allow 14 days for the applicant or RA to update the applicants' property selections. If the required documentation to add the applicant to an additional property wait list is sent, the Applicant will be added to that wait list with status as waiting. If the documentation is not received within 14 days, the applicant will be removed from the 811 program and the release of information signed in the application packet will be ended.

After an Applicant moves in and occupies an 811 PRA unit, the Applicant will be removed from all other 811 PRA waiting lists.

If an Applicant is offered an available unit in a property that the Applicant household is qualified for, but rejects the unit out of preference, they will be removed from that waiting list unless the Applicant or RA proactively requests TDHCA maintain them on that waiting list. Applicants can be removed from all waiting lists if they fail to respond to TDHCA's request for updated Applicant information. Periodically, TDHCA will outreach to Applicants with instructions on how the Applicant must respond to information requests.

Applicants removed from waiting lists have the right to file a complaint following the process outlined in TDHCA's Complaint Procedures in accordance with [10 Texas Administrative Code §1.2](#).

APPLICANT INELIGIBILITY

The TDHCA POC will notify RAs as to an Applicant's eligibility for the PRA Program. If Applicants are determined to be ineligible for the program by TDHCA, the RA will be notified. The format for the communication to the RA will be the Section 811 Project Rental Assistance Program Applicant Rejection Form (Rejection Form) indicating ineligibility; this is the standard form used for all Applicant ineligibility and conforms to HUD Rules and guidance. The Rejection Form includes the following:

- Reason for Ineligibility,
- Notification of Right to Appeal the Ineligibility Determination,
- How to Make Such an Appeal/Dispute, and
- Notice of Occupancy Rights under the Violence Against Women Act.

Applicants will be rejected if they do not meet any of the criteria below:

- The household does not contain at least one member who is between the ages of 18 and 62, disabled and a member of the target population,
- The application was not submitted by a certified Referral Agent,
- Omissions or falsifications on applications by Applicants,
- The family's reported annual income exceeds program income limits,
- The family is unable to provide documentation of SSNs for all family members for which SSNs are required,
- The Head of Household, the spouse or co-head, and all other adults (age 18 and older) in each Applicant family do not sign an Authorization for Release of Information (HUD Form 9887 and 9887/A) prior to being accepted and every year thereafter,
- The unit for which the family is applying for will not be the only residence,
- Applicant does not agree to pay rent required by the program under which the family will be receiving assistance,
- Applicant indicates that they do not meet program eligibility criteria, and this information is confirmed by TDHCA,
- Applicant did not respond to a request to update their application information, or
- A household member is subject to a state sex offender lifetime registration requirement.
- Applicant moves out of state

COMMENCING AND MAINTAINING PROJECT RENTAL ASSISTANCE

Once an applicant signs a HUD 811 PRA lease, their 811 Project Rental Assistance (assistance) begins to be provided directly to the property. Continuing to receive assistance is dependent on the tenant maintaining program eligibility as outlined in the requirements found in HUD Handbook 4350.3 and their upholding the responsibilities outlined in their HUD 811 PRA lease.

If a property notifies TDHCA that a tenant has a lease violation, TDHCA will notify the RA in accordance with all TDHCA conflict management policies and procedures.

TERMINATION OF PROJECT RENTAL ASSISTANCE OR TENANCY BY OWNERS AND REMOVAL FROM PROGRAM

Property owners/agents are authorized to terminate assistance or tenancy only in limited circumstances and after following certain requirements and procedures to ensure that tenants have received proper notice and an opportunity to respond. Those circumstances include if a tenant is no longer program eligible and/or has violated the terms of their HUD 811 PRA lease. The property owner/agent will follow the requirements and procedures as outlined in the HUD Handbook 4350.3 regarding termination of assistance and tenancy.

Upon termination of assistance or termination of tenancy (often executed through nonrenewal or eviction), the tenant will be removed from the 811 PRA Program and the release of information between TDHCA, RA and the participating property will discontinue. The tenant will be removed from the program no matter if the tenant or their household members are permitted to continue living at the property, if the tenant continues to receive disability supportive services through the RA or a related HHSC agency, or if the tenant has a pending complaint against the property or TDHCA. In this circumstance, the tenant and RA will receive no additional communication from TDHCA regarding termination/removal. Removal from the program does not prevent a household from reapplying to the program.

REINSTATEMENT OF PROJECT RENTAL ASSISTANCE BY OWNERS

There are limited circumstances when the HUD Handbook 4350.3 permits an owner/agent to reinstate assistance after termination. Property owners/agents must receive written confirmation from TDHCA that assistance is available for a unit before reinstating assistance to any 811 PRA tenant, as there may be limited funds.

TERMINATION OF TENANCY BY TENANTS AND REMOVAL FROM PROGRAM

In order to terminate tenancy, the tenant must provide the owner with a written 30-day notice to vacate the unit, as required by the HUD lease. With or without notice, once the tenant has

permanently vacated the unit, the tenant will be removed from the 811 PRA Program, terminating assistance and ending the release of information between TDHCA, RA and the participating property. The tenant and RA will receive no additional communication from TDHCA regarding termination/removal. Removal from the program does not prevent a household from reapplying to the program.

APPLICANT REJECTION APPEAL PROCESS

If an Applicant and/or their RA has received a Rejection Form from TDHCA, the Applicant has the right to dispute the determination of ineligibility. To do so, a written request of appeal must be received by TDHCA within fourteen (14) days of the date the Rejection Form was sent. An Applicant can also request to have a meeting with TDHCA to discuss the ineligibility determination and appeal process. The appeal, or request for a meeting, may be sent via email to the Section 811 Director: spencer.duran@tdhca.state.tx.us or in writing to:

Spencer Duran
TDHCA
Director, Section 811 Program
PO Box 13941
Austin, TX 78711-3941

If an Applicant with disabilities or with limited English proficiency would like to request a reasonable accommodation for the appeal process, or for a meeting, such a request should be made to Spencer Duran at least three days prior to any meeting so that appropriate arrangements can be made.

APPLICANT RIGHTS UNDER PROPERTY-LEVEL REJECTION

Once an Applicant has been referred to a Property, and the Property has received the property-level application materials they require from the applicant, the Property will make a final determination of eligibility. If an Applicant cannot be reached by a property, they may not be able to remain eligible for a unit. Properties are required to promptly notify the Applicant in writing of that determination of ineligibility and its reasons. A rejection letter must also include a notice that the Applicant has the right to meet with the owner or owner's representative to dispute the determination and notify the Applicant of the right to request a reasonable accommodation. If a property is unable to contact an Applicant prior to the completion of a property-level application, they do not have to issue a rejection letter because the Applicant never applied at the property.

If after an appeal to the Property Owner, the Applicant continues to be ineligible, they will remain on the waiting lists of any other properties to which they applied, unless the determination of ineligibility would affect their eligibility at more than one property and would not be likely to change (i.e., the property owner is the same for several properties and applies the same criteria). In such cases, the Applicant would then be removed from those other applicable waiting lists as well.

PROPERTY-LEVEL REASONABLE ACCOMMODATION REQUESTS

Owners of Participating Eligible Multifamily Properties are required by law to respond to requests for reasonable accommodations in all aspects of their operations to assist persons with disabilities in accessing and retaining housing.

Reasonable accommodation requests can include requests relating to a property's screening policies. For instance, some Applicants may have criminal records, poor tenancy histories and/or poor credit histories that owners will determine to be ineligible for those reasons. However, a reasonable accommodation could be warranted if the Applicant can demonstrate that:

1. Their history is disability related; and
2. The situation/behavior is not likely to recur if the accommodation is made.

It should be noted that each property is responsible for its own reasonable accommodation process. TDHCA has approved the property's Tenant Selection Plan and processes. However, if an Applicant believes that a reasonable accommodation request they submitted for a screening policy has been unjustly denied, a Complaint may be filed using TDHCA's process at [Complaint System - TDHCA \(state.tx.us\)](#).

HUD-REQUIRED DISPUTE RESOLUTION PROCESS

Applicants and Tenants who have concerns regarding their tenancy, their unit, the property or property management may contact and enlist the assistance of their Service Coordinator or RA. For disputes with the property owner, TDHCA has adopted the TDHCA Complaint Procedures to serve as the HUD-Required Dispute Resolution Process, in accordance with [10 Texas Administrative Code §1.2](#).

OCCUPANCY STANDARDS

Occupancy standards serve to prevent the over- or underutilization of units that can result in an inefficient use of housing assistance. Occupancy standards also ensure that tenants are treated fairly and consistently and receive adequate housing space.

Generally, a two-persons-per-bedroom standard is acceptable. An owner may establish a different standard for assigning unit size based on specific characteristics of the property (e.g., some bedrooms are too small for two persons), however, if fewer than 2 persons (over the age of 6) per bedroom for each rental unit are required for reasons other than those directed by local building code or safety regulations, a written justification must be provided by the Owner.

Owners are responsible for the final determination that households meet the occupancy standards of this Participant Selection Plan, HUD Handbook 4350.3 and Exhibit 5 of the Cooperative Agreement, Part D §PRA.404.

When TDHCA approves the Owner's Tenant Selection Plan, the participating property's occupancy standard will be reviewed for compliance with HUD Handbook 4350.3.

At initial occupancy, Owners may not place a lower number of tenants in a unit than allowed for occupancy by HUD Handbook 4350.3 Chapter 3-23 or another reasonable standard developed by the Grantee. A single person must not be permitted to occupy a unit with two or more bedrooms, except for the following persons:

1. A person with a disability who needs the larger unit as a reasonable accommodation.
2. A displaced person when no appropriately sized unit is available.
3. A remaining family member of a tenant family when no appropriately sized unit is available.
4. An appropriately sized unit must be available and offered to the Section 811 PRA household before the household can move. If the next household on the waiting list is not appropriate for the unit size available, the unit will be offered to the next available household that fits the unit size.

SECTION 811 PRA PROGRAM REASONABLE ACCOMMODATION REQUESTS

TDHCA will make reasonable accommodations for individuals with handicaps or disabilities (Applicants or tenants). Further, TDHCA will make reasonable adjustments to rules, policies, practices, and procedures in order to enable an Applicant or tenant with a disability to have an equal opportunity to use and enjoy the unit and the common areas of a dwelling, or to participate in or have access to other activities conducted or sponsored by the Owner (or the Owner's designated representative). The use of auxiliary aides will be implemented when necessary.

TDHCA will consider requests for reasonable accommodations from Applicants/tenants with disabilities, in order that they may benefit from the use and enjoyment of the dwelling units. The Applicant/tenant must be able to show that the requested accommodation is necessary, and that

there is a strong, identifiable relationship between the requested accommodation and the individual's disability.

If a household requests a policy modification or other reasonable accommodation by contacting the TDHCA POC, TDHCA will provide the requested accommodation unless doing so would result in a fundamental alteration in the nature of the program, or an undue financial and administrative burden. A fundamental alteration is a modification that is so significant that it alters the essential nature of the operations. Unless there is a clear documented need for a lengthier process or there is a controlling federal statute or regulation specifying a different timeline, when a person requests an accommodation, they should be given a response as soon as possible but not later than 14 calendar days.

Applicants that are in need of a reasonable accommodation to the Section 811 PRA Program Policies and Procedures may submit a request to the TDHCA Director via email: spencer.duran@tdhca.state.tx.us or contact the Department.

Hours of Operation:

Monday-Friday, 8:00 a.m. to 5:00 p.m., except for observed holidays.

Mailing Address:

P.O. BOX 13941
Austin, TX 78711-3941

Phone: (512) 475-3800

UNIT TRANSFER REQUESTS WITHIN PARTICIPATING PROPERTY

Requests for unit transfers within a participating property must be directed to the Owner/Agent of that property.

Owners must follow regulations and requirements found in HUD Handbook 4350.3 and the Uniform Multifamily Rules §10.616 as applicable. During occupancy, Owners must ensure households are not in an overcrowded or under occupied unit. Owners must notify the TDHCA POC before any transfer occurs.

Owners may not prioritize Section 811 PRA Applicants over current residents seeking a unit with a lower income restriction than the unit in which they currently reside.

LIMITED PARTICIPATING PROPERTY TRANSFERS PERMITTED

The Section 811 PRA Program is project-based, meaning it is contractually bound to the participating property and not the resident themselves. Once an Applicant moves into an 811 PRA property, they are immediately removed from all other 811 PRA property waitlists. Referral Agents should convey to the Applicant that by moving into one participating property, they are effectively declining any other properties they might be waiting for.

TDHCA can transfer a household's assistance from one Section 811 PRA Program development to another Section 811 PRA Program development if the receiving development is affiliated with the first development's Owner or Agent. In order for this to occur, 1) the receiving development must have a fully executed Rental Assistance Contract in place; 2) Owners or Agents at each property must be amenable to such transfer; and 3) the tenant's Referral Agent must submit a new Section 811 PRA Program application. Initial eligibility factors such as target population, age and Extremely Low Income limits will not be reviewed for a second time by TDHCA staff, as the tenant is already a participant in the program. Program participation is defined when a tenant occupies an assisted unit for the first time. Signing a Section 811 PRA Lease does not prevent a household from reapplying to the program for other properties not encompassed in the transfer rules.

QUALIFIED HOUSEHOLD LEAVING THE UNIT

The individual who is the qualified individual for the Section 811 PRA program must reside in the household at all times. The TDHCA POC and the property owner must be made aware if the qualified individual is no longer living in the unit. Both the Applicant and the property (if aware) must notify the TDHCA POC if there are any changes to the household composition. If the TDHCA POC is made aware that the qualified individual no longer resides in the unit, the property staff will be informed to contact the remaining household members and verify eligibility of the remaining family members, terminate assistance or have them move out of the unit.

The property staff will need to ascertain whether the qualified individual is only temporarily absent from the household. If the qualifying individual will not be returning to the unit for any reason other than death, the remaining members are only eligible to continue receiving rental assistance if at least one remaining household member is a person with a disability. The remaining household members can be assessed by property staff to determine if any remaining members meet this requirement.

If property staff determines that no remaining household members meet the eligibility criteria, the household can still remain in the unit, but the household **will not** receive any additional Section 811 rental assistance and must pay market rent or the restricted rent of the unit, as applicable. In that circumstance, the tenant who was the qualified individual for the 811 PRA program will be removed from the 811 PRA Program and the release of information between TDHCA, RA and the participating property will end. The remaining tenant will also be removed from the program even if that individual or their remaining household members continue to receive disability supportive services through the RA or a related HHSC agency, or if the tenant or their remaining household members have a pending complaint against the property or TDHCA. In this circumstance, the tenant and RA will receive no additional communication from TDHCA regarding termination/removal. Removal from the program does not prevent a household from reapplying to the program.

OTHER REQUIREMENTS

VAWA

- In accordance with the Violence Against Women Reauthorization Act of 2013 (VAWA), Owners may not deny admission on the basis that the Applicant has been a victim of domestic violence, dating violence, sexual assault, or stalking.
- However, nothing in the VAWA limits the authority of TDHCA to deny admission if TDHCA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the properties. Similarly, Owners have the authority to deny admission to, or evict from, or terminate the assistance of, any Applicant, tenant or lawful occupant if the Owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property.
- In addition, Sections 606 and 607 of VAWA allow TDHCA and/or Owners to request in writing that an individual complete, sign and submit, within 14 business days of the request, a HUD-approved certification form. On the form, the individual certifies that he/she is a victim of domestic violence, dating violence, or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual shall provide the name of the perpetrator.
- In lieu of a certification form, or in addition to the certification form, a tenant may provide to TDHCA and/or Owners, (1) a Federal, State, tribal, territorial, or local police record or court record; (2) documentation signed and attested to by an employee, agent or volunteer of a victim service provider, an attorney or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence or stalking, or the effects of abuse, in which the professional attests under penalty of perjury

(28 U.S.C. 1746) to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, or stalking has signed or attested to the documentation. If the individual does not provide the form HUD - 50066 or the information that may be provided in lieu of the certification by the 14th business day or any extension of that date, none of the protections afforded to the victim of domestic violence, dating violence or stalking by sections 606 or 607 will apply. The Owner would therefore be free to evict, or to terminate assistance, in the circumstances authorized by otherwise applicable law and lease provisions, without regard to the amendments made by Sections 606 and 607.

- TDHCA, at its discretion, may provide assistance to an individual based solely upon the individual’s statement or other corroborating evidence.
- Applicants may contact the TDHCA POC regarding VAWA requests to TDHCA’s Policies and Procedures. TDHCA will provide written response to all requests under VAWA within 14 days. Owners are responsible for their own VAWA policies, but, when TDHCA approves the Owner’s Tenant Selection Plan; the participating Eligible Multifamily Property’s VAWA policies will be reviewed.
- No other subsidy is accepted such as Section 8 or other tenant-based rental assistance.

FAIR HOUSING AND EQUAL OPPORTUNITY

Non-Discrimination Requirements of TDHCA

TDHCA is operating the Texas Section 811 Project Rental Assistance Program in accordance with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Executive Order 11063; Section 504 of the Rehabilitation Act of 1973; Title II of the Americans with Disabilities Act; and Section 109 of the Housing and Community Development Act of 1974. Referral Agents (RA) and 811 Service Coordinators, as identified in the Interagency Agreement and the Medicaid Agencies, shall also comply with all of these applicable fair housing and civil rights requirements.

TDHCA will comply with HUD’s Equal Access rules at 24 C.F.R. §§ 5.100, 5.105(a)(2), 5.403 and HUD’s final rule published in the Federal Register at 77 Fed. Reg. 5662, “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity.”

TDHCA will affirmatively further fair housing by ensuring accessible units are among the portfolio, equal access to the program is provided and reasonable accommodations are granted when necessary to provide equal opportunity to receive program benefits and services.

Persons who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write, or understand English are considered persons with limited English proficiency. It is the policy of TDHCA that language assistance will be made available for persons with limited English proficiency to ensure that individuals with limited English proficiency have meaningful access to the Section 811 PRA Program. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

United States citizenship does not determine whether a person has limited English proficiency. It is possible for a person who is a United States citizen to have limited English proficiency. This requirement applies to citizens, documented non-citizens, and undocumented non-citizens.

TDHCA shall cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to applicable civil rights statutes, Executive Orders, and related rules and regulations.

Non-Discrimination Requirements of Properties

Properties must comply with all applicable fair housing and civil rights requirements in 24 CFR 5.105(a), including, but not limited to, the Fair Housing Act; Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title III of the Americans with Disabilities Act; and Section 109 of the Housing and Community Development Act of 1974, and the Age Discrimination Act implementing regulations at 24 CFR part 146.

Properties must also comply with HUD's Equal Access to Housing in HUD Programs regardless of Sexual Orientation or Gender Identity requirements. See HUD's Equal Access rules at 24 C.F.R. §§5.100, 5.105(a)(2), 5.403 and HUD's final rule published in the Federal Register at 77 Fed. Reg. 5662, "Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity."

If the Property is in a jurisdiction that has also passed a law or laws proscribing discrimination in housing based upon other applicant criteria (i.e., sexual orientation or gender identity or lawful source of income) the Owner must comply with those laws of the localities in which the programs or activities are conducted.